

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

TABARI S STRONG, *et al.*, §
Plaintiffs, §
VS. § CIVIL ACTION NO. 2:12-CV-106
BRAD LIVINGSTON, *et al.*, §
Defendant. §

ORDER ON MOTION FOR CONTEMPT

Pending is Plaintiff Strong's motion for a finding of contempt (D.E. 115). The motion is denied without prejudice.

Plaintiff Strong contends that he was disciplined for failure to groom in violation of the preliminary injunction requiring that he be allowed to maintain a one-quarter inch beard (*Id.*). Defendants presented evidence that security officials believed that Plaintiff's beard exceeded the allowed one-quarter inch in length and that he had failed to properly groom his beard and his hair length (D.E. 120). Plaintiff complains that he had groomed his beard three days earlier. Plaintiff filed a reply stating that he had been experiencing retaliation by TDCJ officials for exercising his rights (D.E. 124).

The Court does not need an expert witness or a fact finding hearing in order to take judicial notice that for some adult males, a facial beard can grow in excess of one-quarter inch in length in three days. If Plaintiff's beard had been trimmed to one-quarter inch three days earlier, it was longer than that when the disciplinary notice was written. Defendant Stephens also presented evidence that Plaintiff had allowed his hair to grow

longer than allowed, and that he refused to cut it. The Court finds that there was no intentional violation of the preliminary injunction.¹

In any event this case has been stayed to allow Defendant Stephens and TDCJ to promulgate grooming regulations in compliance with *Holt v. Hobbs.*, ____ U.S. ____, 135 S.Ct. 853 (2015) (D.E. 121, 122). TDCJ has agreed to permit both Plaintiffs to maintain a one-half inch beard during the period that the case is stayed (*Id.*). The Court hopes that with the agreement of Director Stephens that Plaintiffs can maintain up to a one-half inch beard, the disputes over length of the beard will be reduced over time as the TDCJ security officials become familiar with the agreement in this case and as new regulations are implemented.

SIGNED and ENTERED on 3/10/15.


NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE

¹ As to Plaintiff's allegation of retaliation, there is no evidence that Defendant Stephens participated in any retaliatory actions against Plaintiff. To the extent that Plaintiff is complaining of retaliation, he is free to exhaust his administrative remedies and file a retaliation lawsuit.